

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
FALLS AMATEUR RADIO CLUB, INC.)	File No. 0003272664
Application to Modify License for Amateur)	
Station K9RHH to Call Sign W9CQ)	
)	
QRQ CW AND CONTEST GROUP)	File No. 0003449529
Application to Modify License for Amateur)	
Station KC9MWH to Call Sign W9CQ)	

ORDER ON RECONSIDERATION AND ORDER PROPOSING MODIFICATION

Adopted: September 23, 2008

Released: September 24,

2008

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* This matter involves applications from two amateur club station licensees, both requesting the assignment of call sign W9CQ. The first application, filed by Falls Amateur Radio Club, Inc. (Falls), was dismissed on the grounds that the call sign was not yet available to the vanity call sign system. Falls filed a timely petition for reconsideration of the dismissal.¹ While the petition was pending, the second application for call sign W9CQ, filed by QRQ CW and Contest Group (QRQ) was granted. For the reasons set forth below, we conclude that the first application should not have been dismissed. Consequently, we grant the petition for reconsideration to the extent that we initiate a proceeding to modify QRQ's license to reflect its former call sign, whereupon we would be able to assign call sign W9CQ to Falls.

2. *Background.* A call sign associated with a license that expires, is canceled due to the licensee's death, or is surrendered, revoked, set aside, or voided, is not available for reassignment through the vanity call sign system for two years.² Close relatives of the deceased former holder, and club stations acting with the written consent of a close relative of the deceased, are exempt from the two-year waiting period following the licensee's death.³

3. In 2007, the Commission was notified that Paul Kent, to whose amateur station call sign W9CQ was then assigned, had died on January 1, 2006. Therefore, the call sign was due to become available for reassignment through the vanity call sign system on January 2, 2008.

4. On April 3, 2007, Robert C. Moldenhauer (Moldenhauer) filed an application requesting W9CQ as a vanity call sign.⁴ Moldenhauer stated that he was eligible for the call sign

¹ Petition for Reconsideration (filed Jan. 23, 2008) (Petition); *see also* Petition for Expedited Relief (filed July 29, 2008).

² *See* 47 C.F.R. § 97.19(c).

³ *See* 47 C.F.R. § 97.19(c)(3).

⁴ *See* File No. 0002978247.

prior to the expiration of the two-year waiting period because he was an in-law of Paul Kent.⁵ This application was granted on April 21, 2007. On August 3, 2007, Moldenhauer filed another application requesting modification of his amateur station call sign to, among other call signs, W9IS.⁶ This application was granted on August 21, 2007, thereby resulting in his license for call sign W9CQ being surrendered and canceled. On November 1, 2007, after inquiry by the Commission's Enforcement Bureau, Moldenhauer reported that he had surrendered call sign W9CQ after realizing that he was related to a different Paul Kent and therefore was not eligible for the call sign prior to the end of the two-year waiting period.⁷

5. On January 2, 2008, Falls submitted an application to modify its amateur radio station license to show the call sign W9CQ.⁸ This application was dismissed on the grounds that the call sign was not available (because it was less than two years since it had been surrendered by Moldenhauer).⁹ On January 23, 2008, Falls filed a petition for reconsideration of the dismissal, arguing that the call sign should have been made available to the vanity call sign system on January 2, 2008 because Moldenhauer was not eligible for the call sign prior to the expiration of the two-year waiting period.¹⁰ Additionally, Falls requested that call sign W9CQ be assigned to its station license because it was the only applicant that requested call sign W9CQ on that date.¹¹

6. On May 23, 2008, QRQ submitted an application to modify its amateur radio station license to show the call sign W9CQ.¹² The application stated that QRQ was acting with the written consent of a nephew of Paul Kent.¹³ This application was granted on June 10, 2008.

7. *Discussion.* We agree with Falls that call sign W9CQ should have been made available to the vanity call sign system on January 2, 2008 because Moldenhauer was not eligible for the intervening grant of the call sign. As specifically provided in public notices setting forth the procedures of the vanity call sign system, "Where a vanity call sign for which the most recent recipient was ineligible is surrendered, canceled, revoked or voided, the two year requirement does not apply."¹⁴ We also conclude that because Falls was the only applicant for that call sign on January 2, 2008, the call sign should have been assigned to Fall's amateur station.

⁵ *Id.*

⁶ See File No. 0003129629.

⁷ See electronic mail message dated Nov. 1, 2007 from Robert Moldenhauer to W. Riley Hollingsworth.

⁸ See File No. 0003272664.

⁹ See Dismissal Letter Ref. No. 4701008.

¹⁰ See Petition at 4-7.

¹¹ See *id.* at 7-8.

¹² File No. 0003449529.

¹³ *Id.*

¹⁴ See Amateur Station Vanity Call Sign System Filing Gate 3 Opens August 6, 1997, *Public Notice*, at 2 (rel. July 3, 1997); Amateur Station Vanity Call Sign System Filing Gate 4 Opens December 2, 1997, *Public Notice*, at 2 (rel. Oct. 30, 1997).

8. At this time, however, we cannot set aside the grant of QRQ's above-captioned application for call sign W9CQ, because the grant is a final action.¹⁵ Instead, we find that Section 316(a)(1) of the Communications Act of 1934, as amended (the Act), provides the appropriate vehicle to correct this error.¹⁶ Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.¹⁷ Consequently, we propose to modify QRQ's amateur radio station license to show the call sign KC9MWH, which was the call sign assigned to QRQ's amateur station prior to the grant of its above-captioned application. The proposed modification would serve the public interest by ensuring that the procedures of the vanity call sign system are followed. Upon the modification of QRQ's license, we would be able to assign call sign W9CQ to Falls pursuant to its above-captioned application.

9. In accordance with Section 97.27(b) of the Commission's Rules,¹⁸ we will not issue a modification order until QRQ has received notice of our proposed action and has had an opportunity to file a protest. To protest the modification, QRQ must, within thirty days of the release date of this *Order on Reconsideration and Order Proposing Modification*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, DC 20554.¹⁹ If no protest is filed, QRQ will have waived its right to protest the modification and will be deemed to have consented to the modification.

10. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed on January 23, 2008 by Falls Amateur Radio Club, Inc. IS GRANTED to the extent indicated herein, and application File No. 0003272664 is RETURNED TO PENDING STATUS.

11. IT IS FURTHER ORDERED that, pursuant to Sections 4(i) and 316 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316, and Sections 1.87 and 97.27 of the Commission's Rules, 47 C.F.R. §§ 1.87, 97.27, IT IS PROPOSED that the license of QRQ CW and Contest Group for Amateur Radio Station W9CQ BE MODIFIED by changing the call sign to KC9MWH.

¹⁵ See 47 C.F.R. §§ 1.106(f), 1.108.

¹⁶ 47 U.S.C. § 316(a)(1).

¹⁷ *Id.*

¹⁸ 47 C.F.R. § 97.27(b); *see also* 47 C.F.R. § 1.87.

¹⁹ The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at our new location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. *See* FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

12. IT IS FURTHER ORDERED that this *Order on Reconsideration and Order Proposing Modification* shall be sent by certified mail, return receipt requested, to Phillip L. Smith, 1602 Audubon Road, Vincennes, IN 47591, trustee for QRQ CW and Contest Group.

13. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATION COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau